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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA Commercial Mortgage Company,

Debtors.

Case No. BK-S-06-10725-LBR

CHAPTER 11

**Stipulated Motion re Proof of Claim of
Dr. Melody A. Pfingsten and Crystal
Wittich re Marlton Square (Second)
Developers**

USACM Liquidating Trust (the "USACM Trust"), by and through its counsel, Lewis and Roca LLP, and Dr. Melody A. Pfingsten and Crystal Wittich, ("Dr. Pfingsten and Ms. Wittich), file this stipulated motion seeking to settle proof of claim No. 10725-00805 (the "Pfingsten/Wittich" claim") against the estate of USA Commercial Mortgage Company ("USACM").

The USACM Trust and Dr. Pfingsten and Ms. Wittich stipulate:

1. Dr. Pfingsten and Ms. Wittich filed proof of claim No. 10725-00805 in the amount of \$110,887.80, of which \$55,443.90 was based upon an investment in the Marlton Square (Second) Developers Loan.

2. The Pfingsten/Wittich claim was initially double counted. The double counted portion of the claim was disallowed by Order of this Court [DE 7687]. The remaining portion of the claim based upon an investment in Marlton Square (Second) Developers is \$55,443.90.

1 3. On August 3, 2011, the USACM Trust filed its First Omnibus Objection to
2 Proofs of Claim Based Entirely Upon Investment in the Marlton Square (Second)
3 Developers Loan [DE 8804] (the "Objection"). The Objection sought to disallow the
4 Marlton Square (Second) Developers Claims, including the Pfingsten/Wittich Claim in its
5 entirety.

6 4. Ms. Pfingsten contacted counsel for the Trust upon receipt of the objection.
7 Due to a misunderstanding in the communications, the Pfingsten/Wittich claim was
8 disallowed by the Order Sustaining First Omnibus Objection of USACM Trust To Proofs
9 of Claim Based Entirely Upon Investment in the Marlton Square (Second) Developers
10 Loan [DE 9400].

11 5. After further discussions, the USACM Trust and Pfingsten/Wittich have
12 agreed that the Pfingsten/Wittich claim should be 25% allowed (\$13,860.97) and 75%
13 disallowed (\$41,582.92).

14 6. Based upon the allowed non-priority unsecured claim in the amount of
15 \$13,860.97, the Trust will make an immediate 4.92% distribution (\$681.95) to
16 Pfingsten/Wittich as the *pro rata* share of the funds reserved by the Trust from the initial
17 creditor distribution. All other funds reserved for the Pfingsten/Wittich Claim, if any, will
18 be released from the Disputed Claims Reserve and made available to the Trust for
19 whatever purpose is appropriate in the administration of the Trust.

20 7. Pfingsten/Wittich will share in future distributions pro rata based upon the
21 allowed claim of \$13,860.97; and
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1 8. This order will supersede the Order Sustaining First Omnibus Objection of
2 USACM Trust To Proofs of Claim Based Entirely Upon Investment In the Marlton Square
3 (Second) Developers Loan [DE 9400], and any other previous orders by this Court that
4 might be deemed to conflict with this order.

5 The Trustee and Pfingsten/Wittich respectfully request that the Court approve this
6 stipulation. A proposed form of order is supplied for the Court's consideration.

7 DATED: March 7, 2012.

8 **LEWIS AND ROCA LLP**

9
10 By: /s/ John Hinderaker (AZ 18024)

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19 **STIPULATED TO AND APPROVED AS**
20 **TO FORM AND CONTENT**

21 /s/ Dr. Melody A. Pfingsten
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25 /s/ Crystal Wittich
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